



U.S. Department of Justice

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US EPA RECORDS CENTER REGION 5



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Washington, D.C. 20530

March 20, 1985

Eldon G. Kaul  
Assistant Attorney General  
Minnesota Pollution Control Agency  
1935 W. County Road B2  
Roseville, Minnesota 55113

Re: United States v. Reilly Tar & Chemical Corp.  
no. 4-80-469 (D. Minn.)

Dear Eldon:

I am writing to ask the State of Minnesota's assistance in continuing the funding of Dr. Bertram W. Carnow as an expert witness in the above referenced case. As you know, the United States, through the U.S. Environmental Protection Agency, has funded the participation of numerous expert witnesses, including: Olaf Pfannkuch, James Mercer, Marc Hult, Warren Thompson, Eula Bingham, James Selkirk, Roy Albert, Brenda Kimble, and Dennis Foerst. EPA has also funded the \$250,000 Acurex sampling program and the testimony of Ted Wilhite and Viorica Lopez-Avilla. Through the Department of Justice, the United States has funded the participation of Dr. Carnow and his consulting firm, Carnow, Conibear & Associates. We have used Dr. Carnow as a trial witness and his firm for litigation support. Both Dr. Carnow and his firm have been extremely important for litigation preparation.

The funds used to pay Dr. Carnow have come from a special Department of Justice fund of \$250,000 to provide expert witnesses in CERCLA cases. This fund was created with Superfund monies and is to be used in all CERCLA cases where such assistance is needed. The Department has already issued two appropriation requests totalling \$50,000 for the services of Dr. Carnow and his firm. More funds will be needed to continue the use of his services. Reilly has continued Dr. Carnow's deposition for a second day. Dr. Carnow will also need to be paid for witness preparation and direct testimony. Moreover, his firm will continue to be needed to provide litigation support. However, we cannot continue to deplete the Department of Justice expert witness fund which may be needed for other CERCLA cases. EPA is already using its litigation budget for this case to pay for other expert witnesses. Accordingly, I am requesting that the State of Minnesota assume the further cost of Dr. Carnow's services.

I understand that the Minnesota Pollution Control Agency has created a fund to support expert witnesses in this case. This fund may be available to defray some of Dr. Carnow's costs. I have discussed this matter with Dennis Coyne of your office and he supports this request.

Thank you for your kind consideration.

Sincerely yours,

Assistant Attorney General  
Land and Natural Resources Division

*David Hird*

By: David Hird, Attorney  
Environmental Enforcement Section

cc: Dennis Coyne, Esq.